

# In the Court of Appeals of the State of Alaska

**David Haeg,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-13501**

## **Order**

Emergency Motion to Strike

Date of Order: **2/25/2020**

Trial Court Case No. **3KN-10-01295CI, 4MC-04-00024CR**

Before: Allard, Chief Judge, and Harbison, Judge

This Court recently issued an order in the above-named case. In response, the appellant David Haeg has filed an “emergency motion to strike fraudulent order.”<sup>1</sup> Because this motion is based on some misunderstandings of our original order, we provide the following explanation:

Our February 20, 2020 order temporarily remanded this case to the superior court for an independent review, pursuant to AS 22.20.020(c), of Superior Court Judge William A. Morse’s denial of Haeg’s motion to disqualify. Haeg made the oral motion to disqualify Judge Morse on the record at a hearing held on January 28, 2019. The basis for the motion to disqualify was Judge Morse’s self-reported prior association with Haeg’s former defense attorney — Arthur “Chuck” Robinson. (The January 28, 2019 hearing was transcribed for appeal, and the relevant pages include pages 169-173 of the transcript.)

Superior Court Judge Philip Pallenberg has been assigned to conduct the independent review pursuant to AS 22.20.020(c). Typically, such reviews are handled

---

<sup>1</sup> The order is titled “2-22-20 Emergency Motion to Strike Fraudulent Order.” It was filed in Anchorage with the Appellate Clerk’s Office on February 24, 2020.

on an ex parte basis, as contemplated by the statute.<sup>2</sup> That is, there is no hearing to attend and the judge issues his or her order without additional input from the parties. However, a judge retains the discretion to include the parties in the independent review, as appropriate.

In his “emergency motion to strike fraudulent order,” Haeg expresses concern that the independent review will conflict with the time that he is scheduled to be out-of-state for his daughter’s graduation. But, as already noted, most independent reviews are conducted on an ex parte basis and do not require the participation of the parties. If Judge Pallenberg determines that the independent review should involve the parties, he will issue an order and future scheduling can be conducted in accordance with Haeg’s availability.

Haeg also expresses concern that our previous order referred to Judge Morse’s “professional association” with Arthur “Chuck” Robinson, and he asserts that the association was more than just professional. It was not our intent to characterize the nature of the alleged disqualifying conflict in our order. That is something that the reviewing judge is tasked with doing. Indeed, the purpose of the independent review is to ensure that the reviewing judge conducts an independent review of the record and then makes his or her own determination regarding the nature of the alleged disqualifying

---

<sup>2</sup> Alaska Statute 22.20.020(c) provides, in pertinent part:

If a judicial officer denies disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court. The hearing may be ex parte and without notice to the parties or judge.

*Haeg v. State* – p. 3  
File No. A-13501  
February 25, 2020

conflict and the propriety of the judge's denial of the motion to recuse.

Lastly, to the extent Haeg has additional concerns about our order or about the independent review process, both he and the State will be given an opportunity to submit additional briefing in this Court in response to the independent review order ultimately issued by Judge Pallenberg.

Accordingly, for the reasons just explained, we DENY the “emergency motion to strike fraudulent order.”

Entered at the direction of the Court.

Clerk of the Appellate Courts

---

Meredith Montgomery

cc: Court of Appeals Judges  
Judge Pallenberg

Distribution:

Mail:

Soderstrom, Donald

Haeg, David

Email:

Soderstrom, Donald

Haeg, David